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5 **BEFORE THE**
6 **BOARD OF REGISTERED NURSING**
7 **DEPARTMENT OF CONSUMER AFFAIRS**
8 **STATE OF CALIFORNIA**

9 In the Matter of the Accusation Against:

Case No. 2012-728

10 **CHARLES CLIFFORD SMALL**
11 **750 N. Rush Street, Apt. 1405**
12 **Chicago, IL 60611**

DEFAULT DECISION AND ORDER

[Gov. Code, §11520]

13 **Registered Nurse License No. 617704**

14 Respondent.

15 **FINDINGS OF FACT**

16 1. On or about June 6, 2012, Complainant Louise R. Bailey, M.Ed., R.N., in her official
17 capacity as the Interim Executive Officer of the Board of Registered Nursing, Department of
18 Consumer Affairs, filed Accusation No. 2012-728 against Charles Clifford Small (Respondent)
19 before the Board of Registered Nursing. (Accusation attached as Exhibit A.)

20 2. On or about April 28, 2003, the Board of Registered Nursing (Board) issued
21 Registered Nurse License No. 617704 to Respondent. The Registered Nurse License expired on
22 November 30, 2004, and has not been renewed.

23 3. On or about June 6, 2012, Respondent was served by Certified and First Class Mail
24 copies of the Accusation No. 2012-728, Statement to Respondent, Notice of Defense, Request for
25 Discovery, and Discovery Statutes (Government Code sections 11507.5, 11507.6, and 11507.7) at
26 Respondent's address of record which, pursuant to California Code of Regulations, title 16,
27 section 1409.1, is required to be reported and maintained with the Board. Respondent's address
28 of record was and is:

750 N. Rush Street, Apt. 1405
Chicago, IL 60611.

4. In addition, on or about June 6, 2012, Respondent was served by Certified and First Class Mail copies of the Accusation No. 2012-728, Statement to Respondent, Notice of Defense, Request for Discovery, and Discovery Statutes (Government Code sections 11507.5, 11507.6, and 11507.7) at:

1350 S Greenfield Rd #2075,
Mesa, AZ 85206

5. Service of the Accusation was effective as a matter of law under the provisions of Government Code section 11505, subdivision (c) and/or Business & Professions Code section 124.

6. On or about June 18, 2012, and July 2, 2012, the aforementioned documents sent to Rush Street were returned by the U.S. Postal Service marked "please return, not at this address." The address on the documents was the same as the address on file with the Board.

7. On or about July 20, 2012, the aforementioned documents sent to Greenfield Road were returned by the U.S. Postal Service marked "unclaimed."

8. Respondent has failed to maintain an updated address with the Board and the Board has made attempts to serve the Respondent at the address on file. Respondent has not made himself available for service and therefore, has not availed himself of his right to file a notice of defense and appear at hearing.

9. Government Code section 11506 states, in pertinent part:

(c) The respondent shall be entitled to a hearing on the merits if the respondent files a notice of defense, and the notice shall be deemed a specific denial of all parts of the accusation not expressly admitted. Failure to file a notice of defense shall constitute a waiver of respondent's right to a hearing, but the agency in its discretion may nevertheless grant a hearing.

10. Respondent failed to file a Notice of Defense within 15 days after service upon him of the Accusation, and therefore waived his right to a hearing on the merits of Accusation No. 2012-728.

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11. California Government Code section 11520 states, in pertinent part:

(a) If the respondent either fails to file a notice of defense or to appear at the hearing, the agency may take action based upon the respondent's express admissions or upon other evidence and affidavits may be used as evidence without any notice to respondent.

12. Pursuant to its authority under Government Code section 11520, the Board finds Respondent is in default. The Board will take action without further hearing and, based on the relevant evidence contained in the Default Decision Evidence Packet in this matter, as well as taking official notice of all the investigatory reports, exhibits and statements contained therein on file at the Board's offices regarding the allegations contained in Accusation No. 2012-728, finds that the charges and allegations in Accusation No. 2012-728, are separately and severally, found to be true and correct by clear and convincing evidence.

13. Taking official notice of its own internal records, pursuant to Business and Professions Code section 125.3, it is hereby determined that the reasonable costs for Investigation and Enforcement is \$1,005.00 as of October 16, 2012.

DETERMINATION OF ISSUES

1. Based on the foregoing findings of fact, Respondent Charles Clifford Small has subjected his Registered Nurse License No. 617704 to discipline.

2. The agency has jurisdiction to adjudicate this case by default.

3. The Board of Registered Nursing is authorized to revoke Respondent's Registered Nurse License based upon the following violations alleged in the Accusation which are supported by the evidence contained in the Default Decision Evidence Packet in this case:

a. Respondent engaged in unprofessional conduct under Code section 2761, subdivision (a)(4), in that effective June 16, 2011, pursuant to the Consent Agreement and Order in Case No. 0907089 (attached hereto and incorporated herein as Exhibit A), Respondent was disciplined by the Arizona State Board of Nursing ("Arizona Board"). Respondent was placed on twelve months probation, after self reporting to that Board that he had been arrested for driving under the influence on April 12, 2009. Based on that report, the Board initiated an investigation. That investigation revealed the following:

1 1. On or about June 13, 2008, according to Phoenix Police report number
2 200881012347, Respondent was arrested for leaving the scene of an accident, threatening to
3 cause physical harm, and an outstanding warrant. The police investigation showed that
4 Respondent crashed his wife's car and then went home without reporting the accident.
5 Respondent admitted to police that he had been drinking alcohol prior to the accident and made
6 statements that the police considered threatening.

7 2. On or about July 9, 2008, in Phoenix Municipal Court, Case No. 13757208,
8 Respondent was convicted, pursuant to a guilty plea, of misdemeanor leaving the scene of an
9 accident.

10 3. On or about October 14, 2008, according to Phoenix Police Report No.
11 200881767531, police arrested Respondent for criminal damage after he broke his wife's cell
12 phone during a domestic dispute.

13 4. On or about November 5, 2008, in Phoenix Municipal Court, Case No. 20089039905,
14 Respondent was convicted pursuant to a guilty plea, of misdemeanor criminal damage.

15 5. On or about December 16, 2008, in Dreamy Draw Justice Court, Case No. CR2008-
16 178258-001DT, a complaint was signed charging Respondent with three counts of misdemeanor
17 interfering with judicial proceedings.

18 6. On or about December 7, 2009, in Dreamy Draw Justice Court, Case No. CR2008-
19 178258-001DT, Respondent was convicted, pursuant to a guilty plea, of one count of
20 misdemeanor interfering with judicial proceedings.

21 7. On or about April 12, 2009, according to Scottsdale Police Report No. 09-09934,
22 Respondent was arrested for DUI after being stopped for speeding and running a red light. His
23 blood alcohol level measured .14%.

24 8. On or about September 17, 2009, in Scottsdale Municipal Court, Case No. N-751-TR-
25 2009012090, Respondent was convicted, pursuant to a guilty plea, of misdemeanor DUI.

26 9. On or about April 28, 2009, in Phoenix Municipal Court, Case No. 20099012675, a
27 complaint was signed charging Respondent with one count of misdemeanor aggravated assault,
28 and one count of misdemeanor interfering with judicial proceedings.

1 10. On or about October 29, 2009, in Phoenix Municipal Court, Case No. 20099012675,
2 Respondent was convicted pursuant to a guilty plea, of misdemeanor assault, and one count of
3 misdemeanor interfering with judicial proceedings.

4 11. On or about February 3, 2011, Respondent underwent a substance abuse evaluation
5 with Dr. Buffy Wooten, Ph.D. Dr. Wooten noted in her report that Respondent seems to have
6 significant anger issues that tend to be exacerbated by his use of alcohol. Dr. Wooten diagnosed
7 Respondent with Alcohol Abuse (by history) and Adult Antisocial Behavior (by history). Dr.
8 Wooten recommended random urinalysis and individual therapy.

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ORDER

IT IS SO ORDERED that Registered Nurse License No. 617704, heretofore issued to Respondent Charles Clifford Small, is revoked.

Pursuant to Government Code section 11520, subdivision (c), Respondent may serve a written motion requesting that the Decision be vacated and stating the grounds relied on within seven (7) days after service of the Decision on Respondent. The agency in its discretion may vacate the Decision and grant a hearing on a showing of good cause, as defined in the statute.

This Decision shall become effective on MARCH 29, 2013.

It is so ORDERED FEBRUARY 28, 2013



FOR THE BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS

10967883.DOC
DOJ Matter ID: SA2011102280

Attachment:
Exhibit A: Accusation

Exhibit A

Accusation

1 KAMALA D. HARRIS
Attorney General of California
2 JANICE K. LACHMAN
Supervising Deputy Attorney General
3 LORRIE M. YOST
Deputy Attorney General
4 State Bar No. 119088
1300 I Street, Suite 125
5 P.O. Box 944255
Sacramento, CA 94244-2550
6 Telephone: (916) 445-2271
Facsimile: (916) 327-8643
7 *Attorneys for Complainant*

8 **BEFORE THE**
9 **BOARD OF REGISTERED NURSING**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No.

2012-728

13 **CHARLES CLIFFORD SMALL**
14 **750 N. Rush Street, Apt. 1405**
15 **Chicago, IL 60611**
16 **Registered Nurse License No. 617704**

A C C U S A T I O N

Respondent.

17 Complainant alleges:

18 **PARTIES**

19 1. Louise R. Bailey, M.Ed., RN (Complainant) brings this Accusation solely in her
20 official capacity as the Interim Executive Officer of the Board of Registered Nursing ("Board"),
21 Department of Consumer Affairs.

22 **Registered Nurse License**

23 2. On or about April 28, 2003, the Board issued Registered Nurse License Number
24 617704 to Charles Clifford Small ("Respondent"). The registered nurse license expired on
25 November 30, 2004.

26 **STATUTORY PROVISIONS**

27 3. Section 2750 of the Business and Professions Code ("Code") provides, in pertinent
28 part, that the Board may discipline any licensee, including a licensee holding a temporary or an

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1 inactive license, for any reason provided in Article 3 (commencing with section 2750) of the
2 Nursing Practice Act.

3 4. Code section 2764 provides, in pertinent part, that the expiration of a license shall not
4 deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or
5 to render a decision imposing discipline on the license. Under section Code 2811, subdivision
6 (b), the Board may renew an expired license at any time within eight years after the expiration.

7 5. Code section 2761 states, in pertinent part:

8 The board may take disciplinary action against a certified or licensed
9 nurse or deny an application for a certificate or license for any of the following:

10 (a) Unprofessional conduct, which includes, but is not limited to, the
11 following:

12 (4) Denial of licensure, revocation, suspension, restriction, or any other
13 disciplinary action against a health care professional license or certificate by another
14 state or territory of the United States, by any other government agency, or by another
15 California health care professional licensing board. A certified copy of the decision
16 or judgment shall be conclusive evidence of that action.

14 **COST RECOVERY**

15 6. Code section 125.3 provides, in pertinent part, that the Board may request the
16 administrative law judge to direct a licensee found to have committed a violation or violations of
17 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
18 enforcement of the case.

19 **FIRST CAUSE FOR DISCIPLINE**

20 **(Criminal Convictions)**

21 7. Respondent has subjected his license to discipline pursuant to Code section
22 2761, subdivision (a)(4), on the grounds of unprofessional conduct, in that effective June 16,
23 2011, pursuant to the Consent Agreement and Order in Case No. 0907089 (attached hereto and
24 incorporated herein as Exhibit A), Respondent was disciplined by the Arizona State Board of
25 Nursing ("Arizona Board"). Respondent was placed on twelve months probation, after self
26 reporting to that Board that he had been arrested for driving under the influence on April 12,
27 2009. Based on that report, the Board initiated an investigation. That investigation revealed the
28 following:

1 a. On or about June 13, 2008, according to Phoenix Police report number
2 200881012347, Respondent was arrested for leaving the scene of an accident, threatening to
3 cause physical harm, and an outstanding warrant. The police investigation showed that
4 Respondent crashed his wife's car and then went home without reporting the accident.
5 Respondent admitted to police that he had been drinking alcohol prior to the accident and made
6 statements that the police considered threatening.

7 b. On or about July 9, 2008, in Phoenix Municipal Court, Case No. 13757208,
8 Respondent was convicted, pursuant to a guilty plea, of misdemeanor leaving the scene of an
9 accident.

10 c. On or about October 14, 2008, according to Phoenix Police Report No.
11 200881767531, police arrested Respondent for criminal damage after he broke his wife's cell
12 phone during a domestic dispute.

13 d. On or about November 5, 2008, in Phoenix Municipal Court, Case No. 20089039905,
14 Respondent was convicted pursuant to a guilty plea, of misdemeanor criminal damage.

15 e. On or about December 16, 2008, in Dreamy Draw Justice Court, Case No. CR2008-
16 178258-001DT, a complaint was signed charging Respondent with three counts of misdemeanor
17 interfering with judicial proceedings.

18 f. On or about December 7, 2009, in Dreamy Draw Justice Court, Case No. CR2008-
19 178258-001DT, Respondent was convicted, pursuant to a guilty plea, of one count of
20 misdemeanor interfering with judicial proceedings.

21 g. On or about April 12, 2009, according to Scottsdale Police Report No. 09-09934,
22 Respondent was arrested for DUI after being stopped for speeding and running a red light. His
23 blood alcohol level measured .14%.

24 h. On or about September 17, 2009, in Scottsdale Municipal Court, Case No. N-751-TR-
25 2009012090, Respondent was convicted, pursuant to a guilty plea, of misdemeanor DUI.

26 i. On or about April 28, 2009, in Phoenix Municipal Court, Case No. 20099012675, a
27 complaint was signed charging Respondent with one count of misdemeanor aggravated assault,
28 and one count of misdemeanor interfering with judicial proceedings.

1 j. On or about October 29, 2009, in Phoenix Municipal Court, Case No. 20099012675,
2 Respondent was convicted pursuant to a guilty plea, of misdemeanor assault, and one count of
3 misdemeanor interfering with judicial proceedings.

4 k. On or about February 3, 2011, Respondent underwent a substance abuse evaluation
5 with Dr. Buffy Wooten, Ph.D. Dr. Wooten noted in her report that Respondent seems to have
6 significant anger issues that tend to be exacerbated by his use of alcohol. Dr. Wooten diagnosed
7 Respondent with Alcohol Abuse (by history) and Adult Antisocial Behavior (by history). Dr.
8 Wooten recommended random urinalysis and individual therapy.

9 **PRAYER**

10 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
11 and that following the hearing, the Board of Registered Nursing issue a decision:

12 1. Revoking or suspending Registered Nurse License Number 617704, issued to Charles
13 Clifford Small;

14 2. Ordering Charles Clifford Small to pay the Board of Registered Nursing the
15 reasonable costs of the investigation and enforcement of this case, pursuant to Business and
16 Professions Code section 125.3; and,

17 3. Taking such other and further action as deemed necessary and proper.
18
19

20 DATED: June 6, 2012

Louise R. Bailey
LOUISE R. BAILEY, M.ED., RN
Interim Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant

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EXHIBIT A
Consent Agreement and Order No. 0907089,
Arizona State Board of Nursing

BEFORE THE ARIZONA STATE BOARD OF NURSING

IN THE MATTER OF REGISTERED)
NURSE LICENSE NO.: RN128770)

CONSENT AGREEMENT

ISSUED TO:)

AND
ORDER NO.
0907089

CHARLES CLIFFORD SMALL)
RESPONDENT)

CONSENT AGREEMENT

A complaint charging CHARLES CLIFFORD SMALL ("Respondent") with violation of the Nurse Practice Act has been received by the Arizona State Board of Nursing ("Board"). In the interest of a prompt and speedy settlement of the above-captioned matter, consistent with the public interest, statutory requirements and the responsibilities of the Board, and pursuant to A.R.S. § 41-1092.07 (F)(5), the undersigned parties enter into this Consent Agreement as a final disposition of this matter.

Based on the evidence before it, the Board makes the following Findings of Fact and Conclusions of Law:

FINDINGS OF FACT

1. Respondent holds Board issued registered nurse license no. RN128770.
2. On or about July 14, 2009, Respondent self reported to the Board that he was arrested for Driving Under the Influence (DUI) on April 12, 2009. Based upon this report, the Board initiated an investigation.
3. On or about June 13, 2008, according to Phoenix Police report number 200881012347, Respondent was arrested for Leaving the Scene of an Accident, Threatening to Cause Physical Harm and an outstanding warrant. The police investigation showed that Respondent had crashed his wife's car and then went home without reporting the accident.

Respondent admitted to police that he had been drinking alcohol prior to the accident and made statements that the police considered threatening.

4. Respondent failed to report his criminal charge to the Board within ten days.

5. On or about July 9, 2008, in Phoenix Municipal Court, complaint number 13757208, Respondent was convicted, pursuant to a guilty plea, of misdemeanor Leaving the Scene of an Accident.

6. On or about October 14, 2008, according to Phoenix Police report number 200881767531, police arrested Respondent for Criminal Damage after he broke his wife's cell phone during a domestic dispute.

7. Respondent failed to report his criminal charge to the Board within ten days.

8. On or about November 5, 2008, in Phoenix Municipal Court, complaint number 20089039905, Respondent was convicted, pursuant to a guilty plea, of misdemeanor Criminal Damage.

9. On or about December 16, 2008, in Dreamy Draw Justice Court, case number CR2008-178258-001DT, a complaint was signed charging Respondent with three counts of misdemeanor Interfering with Judicial Proceedings.

10. Respondent failed to report his criminal charge to the Board within ten days.

11. On or about December 7, 2009, in Dreamy Draw Justice Court, case number CR2008-178258-001DT, Respondent was convicted, pursuant to a guilty plea, of one count of misdemeanor Interfering with Judicial Proceedings.

12. On or about April 12, 2009, according to Scottsdale Police report number 09-09934, Respondent was arrested for DUI after being stopped for speeding and running a red light. His Blood Alcohol Content (BAC) was .14%.

13. Respondent failed to report his DUI charge to the Board within ten days.
14. On or about September 17, 2009, in Scottsdale municipal Court, case number N-751-TR-2009012090, Respondent was convicted, pursuant to a guilty plea, of misdemeanor DUI.
15. On or about April 28, 2009, in Phoenix Municipal Court, complaint number 20099012675, a complaint was signed charging Respondent with one count of misdemeanor Aggravated Assault, and one count of misdemeanor Interfering with Judicial Proceedings.
16. On or about October 29, 2009, in Phoenix Municipal Court, complaint number 20099012675, Respondent was convicted, pursuant to a guilty plea, of misdemeanor Assault, and one count of misdemeanor Interfering with Judicial Proceedings.
17. On or about February 3, 2011, Respondent underwent a substance abuse evaluation with Dr. Buffy Wooten, Ph.D. Dr. Wooten noted in her report that Respondent seems to have significant anger issues that tend to be exacerbated by his use of alcohol. Dr. Wooten diagnosed Respondent with Alcohol Abuse (By history) and Adult Antisocial Behavior (By history), and recommended random urinalysis and individual therapy.

CONCLUSIONS OF LAW

Pursuant to A.R.S. §§ 32-1606, 32-1663, and 32-1664, the Board has subject matter and personal jurisdiction in this matter.

The conduct and circumstances described in the Findings of Fact constitute a violation of: A.R.S. § 32-1663 (D) as defined in ARS §32-1601 (16) (d), (h) and (j) (effective May 9, 2002)

16. "Unprofessional conduct" includes the following whether occurring in this state or elsewhere:

(d) Any conduct or practice that is or might be harmful or dangerous to the health of a

patient or the public.

- (h) Committing an act that deceives, defrauds or harms the public.
- (j) Violating a rule that is adopted by the Board pursuant to this chapter.

Specifically A.A.C. R4-19-403(B) (2), (17), (28)(a), (28)(b) and (28)(c) (effective November 12, 2005). For purposes A.R.S. § 32-1601 (16) (d), a practice that is or might be harmful or dangerous to the health of a patient or the public includes the following:

- 2. Intentionally or negligently causing physical or emotional injury.
- 17. A pattern of using or being under the influence of alcohol, drugs, or a similar substance to the extent that judgment may be impaired and nursing practice detrimentally affected, or while on duty in any health care facility, school, institution, or other work location.
- 28. If a licensee or applicant is charged with a felony or a misdemeanor involving conduct that may affect patient safety, failing to notify the Board in writing, as required under A.R.S. § 32-3208, within 10 days of being charged. The licensee or applicant shall include the following in the notification:
 - a. Name, address, telephone number, social security number, and license number, if applicable;
 - b. Date of the charge; and
 - c. Nature of the offense.

The conduct and circumstances described in the Findings of Fact constitute a violation of: A.R.S. § 32-1663(D) AS DEFINED IN A.R.S. § 32-1601(18) (d), (h) and (j) (effective October 14, 2009)

- 18. "Unprofessional conduct" includes the following whether occurring in this state or

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elsewhere:

- (d) Any conduct or practice that is or might be harmful or dangerous to the health of a patient or the public.
- (h) Committing an act that deceives, defrauds or harms the public.
- (j) Violating a rule that is adopted by the Board pursuant to this chapter.

Specifically: A.A.C. R4-19-403 (2), (17), (28)(a), (28)(b) and (28)(c) (effective February 2, 2009). For purposes of A.R.S. § 32-1601(16)(d), any conduct or practice that is or might be harmful or dangerous to the health of a patient or the public includes one or more of the following:

- 2. Intentionally or negligently causing physical or emotional injury.
- 17. A pattern of using or being under the influence of alcohol, drugs, or a similar substance to the extent that judgment may be impaired and nursing practice detrimentally affected, or while on duty in any health care facility, school, institution, or other work location.
- 28. If a licensee or applicant is charged with a felony or a misdemeanor involving conduct that may affect patient safety, failing to notify the Board in writing, as required under A.R.S. § 32-3208, within 10 days of being charged. The licensee or applicant shall include the following in the notification:
 - a. Name, address, telephone number, social security number, and license number, if applicable;
 - b. Date of the charge; and
 - c. Nature of the offense.

The conduct and circumstances described in the Findings of Fact constitute a violation of:

Respondent understands the right to consult legal counsel prior to entering into this Consent Agreement and such consultation has either been obtained or is waived.

Respondent understands that this Consent Agreement is effective upon its acceptance by the Board and by Respondent as evidenced by the respective signatures thereto. Respondent's signature obtained via facsimile shall have the same effect as an original signature. Once signed by Respondent, the agreement cannot be withdrawn without the Board's approval or by stipulation between Respondent and the Board's designee. The effective date of this Order is the date the Consent Agreement is signed by the Board and by Respondent. If the Consent Agreement is signed on different dates, the later date is the effective date.

C. Small
CHARLES CLIFFORD SMALL, Respondent

Dated: 6/16/11

ARIZONA STATE BOARD OF NURSING

Joey Ridenour R.N. M.N. F.A.A.N.

Joey Ridenour, R.N., M.N., F.A.A.N.
Executive Director

Dated: May 26, 2011

ORDER

In view of the above Findings of Fact, Conclusions of Law and the consent of Respondent, the Board hereby issues the following Order:

A. Respondent's consent to the terms and conditions of this Order and waiver of public hearing is accepted.

B. Respondent's license is placed on probation for twelve months. Prior to termination of probation, Respondent shall work as a registered nurse for a minimum of twelve months, (not less than sixteen hours a week).

C. This Order becomes effective upon the Board and Respondent's acceptance of the Consent Agreement. The effective date of this Order is the date the Consent Agreement is signed by the Board and by Respondent. If the Consent Agreement is signed on different dates, the later date is the effective date.

D. If Respondent is noncompliant with any of the terms of the Order during the twelve month probation portion of the Order, Respondent's noncompliance shall be reviewed by the Board for consideration of possible further discipline on Respondent's nursing license.

E. If Respondent is convicted of a felony, Respondent's license shall be automatically revoked for a period of five years. Respondent waives any and all rights to a hearing, rehearing or judicial review of any revocation imposed pursuant to this paragraph.

F. The probation is subject to the following terms and conditions:

TERMS OF PROBATION

1. Stamping of License

Within seven days of the effective date of this Order, Respondent shall submit his license to be stamped "PROBATION." While this Order is in effect, if the Board issues any certificates or licenses authorized by statute, except a nursing assistant certificate, such certificate or license shall also be stamped "probation." Respondent is not eligible for a multistate "Compact" license.

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2. Individual Psychological Therapy

Within seven days of the effective date of this Order, Respondent shall submit to the Board for approval the name of a psychological therapist, who is at minimum Ph.D. prepared and who is proficient at treating substance abuse as well as anger management, of Respondent's choice, to conduct individual therapy. Within seven days of receipt of approval from the Board, Respondent shall make an appointment to begin participation in individual counseling. Respondent shall undergo individual therapy at least bi-weekly for six months. Respondent shall execute the appropriate release of information form(s) to allow the treating professional(s) to communicate information to the Board or its designee, and Respondent shall immediately provide a copy of the entire Consent Agreement and Dr. Buffey Wooten's report, to all treating professional(s). Within seven days of the beginning of counseling, Respondent shall cause any and all treating professional(s) to submit written verification of initiating of therapy and verifying receipt of the Consent Agreement. Thereafter, Respondent shall cause any and all treating professional(s) to provide quarterly reports to the Board, according to the quarterly reporting schedule assigned to Respondent. Respondent shall continue undergoing therapy until the treating professional(s) notify the Board, in writing on letterhead, that treatment is no longer needed. The Board reserves the right to amend the Order based on recommendation(s) of treating professionals.

3. Drug Testing

Within seven days of the effective date of this Order, Respondent shall enroll in a program that meets Board criteria for random drug testing. Random drug testing shall be done at a minimum of twice per month for twelve months and may be required more frequently as requested by the Board or its designee. Respondent shall notify the drug testing laboratory and

the Board, in writing, of unavailability to test before the anticipated absence. If Respondent is unable to submit a specimen on a date requested due to illness, Respondent must provide in writing within seven days of the missed specimen, documentation from a medical provider who has personally seen Respondent on the day of the requested drug test confirming that Respondent was not physically able to report to the laboratory for drug testing. In addition, any occurrence of the following conditions constitutes noncompliance: a positive drug test showing evidence of any drug other than an authorized drug; submission of a specimen where the integrity has been compromised, as indicated by the presence of adulterants; failure to submit to a drug test on a day when a drug test has been requested by either the Board, its designee, or the laboratory; and submission of a urine sample that is below the acceptable volume or temperature to be tested. A positive drug test showing evidence of any drug other than an authorized drug shall result in immediate notification of Respondent's employer by the Board.

4. Abstain from Alcohol Use

Respondent shall abstain completely from the personal use of alcoholic beverages.

5. Abstain From Unauthorized Drug Use/Proof of Prescription

Respondent shall abstain completely from the personal use or possession of controlled substances, as defined in the State Controlled Substances Act, and dangerous drugs as defined by law, or any drugs requiring a prescription.

Orders prohibiting Respondent from personal use or possession of controlled substances or dangerous drugs do not apply to medications lawfully prescribed to Respondent for a bona fide illness or condition by a medical provider. During the duration of this Order, Respondent shall select one medical provider to coordinate his health care needs and to be aware

of all prescriptions utilized by Respondent. Respondent shall immediately submit to that provider a copy of this Consent Agreement and Order to include the Findings of Fact and Conclusions of Law and shall execute all release of information form(s) as required by the Board or its designee. The medical provider shall, within one week of the effective date of the consent agreement, inform the Board, in writing, of knowledge of Respondent's Order and provide a list of medications prescribed for Respondent. DURING THE DURATION OF THE CONSENT AGREEMENT. RESPONDENT SHALL CAUSE ALL PROVIDERS TO NOTIFY THE BOARD OF ANY ADDITIONAL MEDICATIONS ORDERED BY THE PROVIDER. THE NOTIFICATION SHALL BE MADE IN WRITING WITHIN ONE WEEK OF THE PROVIDER'S ISSUANCE OF THE PRESCRIPTION.

If Respondent has a lawful prescription for a narcotic or mood-altering drug, Respondent shall cause his prescribing provider to submit monthly reports to the Board by the 30th day of each month regarding the continued need for the prescribed narcotic or mood-altering medications. The Board or its designee may, at any time, request the provider to document the continued need for prescribed medications. Respondent shall keep a written record of medications taken, including over-the-counter drugs, and produce such record upon request by the Board or its designee.

6. Notification of Practice Settings

Any setting in which Respondent is currently employed as a nurse shall be provided a copy of the entire Consent Agreement and Order within three days. Thereafter, any setting in which Respondent accepts employment, which requires nursing licensure, shall be provided with a copy of the entire Order on or before the date of hire. Within three calendar days of Respondent's date of hire, Respondent shall cause his immediate supervisor to inform

the Board, in writing and on employer letterhead, acknowledgment of the supervisor's receipt of a copy of this Consent Agreement and Order and the employer's ability to comply with the conditions of probation. In the event Respondent is attending a nursing program, Respondent shall provide a copy of the entire Consent Agreement and Order to the Program Director. Respondent shall cause the Program Director to inform the Board, in writing and on school letterhead, acknowledgment of the program's receipt of a copy of the Consent Agreement and Order and the program's ability to comply with the conditions of probation during clinical experiences.

7. Quarterly Reports

Within thirty days of the effective date of this Order, and quarterly thereafter, Respondent shall cause every employer Respondent has worked for to submit to the Board, in writing, quarterly employer evaluations on the Board-approved form. In the event Respondent is not employed in nursing or attending school during any quarter or portion thereof, Respondent shall submit to the Board, in writing, a self-report describing other employment or activities on the Board-approved form.

Receipt of confirmation of employment disciplinary action, including written counseling(s), suspension, termination or resignation in lieu of termination from a place of employment, any of which pertains to improper patient care, unsafe practice, inappropriate medication removal or administration, sub-standard documentation, or impairment on duty, positive drug test showing evidence of any drug other than an authorized drug, and/or refusal to submit to an employer requested drug screen/testing, shall be investigated by Board staff and reviewed and substantiated by the Board's designee. If so investigated, reviewed and

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substantiated, the employment disciplinary action shall be considered as noncompliance with the terms of the Order.

Failure to provide employer evaluations or if not working in nursing, self-reports, within seven days of the reporting date is non-compliance with this Order and is not subject to further review.

8. Practice Under On-Site Supervision

Respondent shall practice as a registered nurse only under the on-site supervision of a registered nurse in good standing with the Board. On-site supervision is defined as having a registered nurse present in the building while Respondent is on duty. The supervising nurse shall have read this Consent Agreement and Order to include the Findings of Fact and Conclusions of Law, and Order, and shall provide input on Respondent's employer evaluations to the Board. The supervising nurse/primary preceptor shall be primarily one person, who may periodically delegate to other qualified personnel, who shall also have read this Consent Agreement and Order to include Findings of Fact, Conclusions of Law. In the event that the assigned supervising nurse is no longer responsible for the supervision required by this paragraph, Respondent shall cause his new supervising nurse to inform the Board, in writing and on employer letterhead, acknowledgment of the new supervisor's receipt of a copy of this Consent Agreement and Order to include the Findings of Fact and Conclusions of Law and the new supervising nurse's agreement to comply with the conditions of probation within ten days of assignment of a new supervising nurse.

9. Acceptable Hours of Work

Respondent shall work only the day or evening shift. Evening shift is defined as a shift that ends prior to midnight. Within a 14-day period Respondent shall not work more than 84 scheduled hours.

Respondent may work three 12-hour shifts in one seven day period and four 12-hour shifts in the other seven-day period, but Respondent may not work more than 3 consecutive 12-hour shifts during this probationary period. Respondent shall not work 2 consecutive 8 hour shifts within a 24 hour period or be scheduled to work 16 hours within a 24 hour period.

10. Registry Work Prohibited

Respondent may not work for a nurse's registry, home health, traveling nurse agency, any other temporary employing agencies, float pool, or position that requires on-call status.

11. Out-Of-State Practice/Residence

Before any out-of-state practice or residence can be credited toward fulfillment of these terms and conditions, it must first be approved by the Board prior to leaving the state. If Respondent fails to receive such approval before leaving the state, none of the time spent out of state will be credited to the fulfillment of the terms and conditions of this Order.

12. Release of Information Forms

Respondent shall sign all release of information forms as required by the Board or its designee and return them to the Board within ten days of the Board's written request. If Respondent fails to execute the releases, his license shall be reviewed by the Board for consideration of possible further discipline on Respondent's license.

13. Interview with the Board or its Designee

Respondent shall appear in person or if residing out of state telephonically for interviews with the Board or its designee upon request at various intervals and with reasonable notice.

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14. Renewal of License

In the event the Respondent's registered nurse license is scheduled to expire while this Order is in effect, Respondent shall apply for renewal of the license, pay the applicable fee, and otherwise maintain qualification to practice nursing in Arizona.

15. Change of Employment/Personal Address/Telephone Number

Respondent shall notify the Board, in writing, within seven days of any change in nursing employment, personal address or telephone number. Changes in nursing employment include the acceptance, resignation or termination of employment.

16. Obey All Laws

Respondent shall obey all laws/rules governing the practice of nursing in this state and obey all federal, state and local criminal laws. Respondent shall report to the Board, within ten (10) days, any misdemeanor or felony arrest or conviction.

17. Costs

Respondent shall bear all costs of complying with this Order.

18. Violation of Probation

If Respondent is noncompliant with this Order in any respect, the Board or its designee may notify Respondent's employer of the non-compliance. Additionally, the Board may revoke probation and take further disciplinary action for noncompliance with this Order after affording Respondent notice and the opportunity to be heard. If a complaint or petition to revoke probation is filed against Respondent during probation, the Board shall have continuing jurisdiction until the matter is final, and the period of probation shall be extended until the matter is final.

19. Voluntary Surrender of License

Respondent may, at any time this Order is in effect, voluntarily request surrender of his license.

20. Completion of Probation

Respondent is not eligible for early termination of this Order. Upon successful completion of the terms of probation, Respondent shall request formal review by the Board, and after formal review by the Board, Respondent's nursing license may be fully restored by the appropriate Board action if compliance with this Order has been demonstrated.

SEAL

ARIZONA STATE BOARD OF NURSING

Joey Ridenour R.N. M.N. F.A.A.N.

Joey Ridenour, R.N., M.N., F.A.A.N.
Executive Director

Dated: May 26, 2011

JR/DP:eg

COPY mailed this 10th day of June, 2011, by First Class Mail to:

CHARLES CLIFFORD SMALL
5144 N. 82nd St
SCOTTSDALE, AZ 85254

By: Esther Garcia

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